

CITY OF BELMONT

PLANNING COMMISSION

SUMMARY MINUTES

TUESDAY, APRIL 21, 2009, 7:00 PM

Chair Horton called the meeting to order at 7:00 p.m. at One Twin Pines Lane, City Hall Council Chambers.

1. ROLL CALL

Commissioners Present: Horton, Mayer, Parsons, Mathewson, Reed, Frautschi
Commissioners Absent: Mercer

Staff Present: Community Development Director de Melo (CDD), City Attorney Zafferano (CA), Recording Secretary Flores (RS)

2. AGENDA AMENDMENTS - None

3. COMMUNITY FORUM (Public Comments)

CDD de Melo introduced Michelle Jackson, Executive Director of Shelter Network and a member of the HOPE (Housing Our People Effectively) Plan, which is the County's 10-year plan for action to end homelessness. Ms. Jackson gave a power point presentation detailing the estimated number of homeless people in the County and the concepts of the HOPE Plan. Carol Groom, member of San Mateo County Board of Supervisors and co-chair of the HOPE Committee, stated the vision of HOPE for providing housing and services for the County's homeless or at-risk people by 2015 and made an appeal for the City to incorporate the HOPE Plan's specific recommendations into its Housing Element. She asked that the City adopt a zoning program that treats transitional and supportive housing as a residential use, and support policies that are encouraged by incentives to include extremely low-income housing in all new affordable housing projects. She concluded by asking that as a specific action in the Housing Element program, the Commission hold a Study Session to consider endorsing the HOPE plan.

4. CONSENT CALENDAR

4A. Minutes of March 17, 2009

RS Flores noted that Commissioner Frautschi had asked that the first sentence on page 3 be changed to read "....did not indicate the full intent of the applicant" and on page 4, in the paragraph following the motion, change to read ".... that it include a crucial condition calling for an illustration..."

MOTION: By Commissioner Mathewson, seconded by Commissioner Frautschi, to accept the Minutes of March 17, 2009 as amended.

Ayes: Mathewson, Frautschi, Parsons, Reed, Mayer, Horton
Noes: None
Absent: Mercer

Motion passed 6/0/1

5. STUDY SESSION

5A. City of Belmont 2007-2014 Housing Element Update

CDD de Melo summarized the staff memorandum and the Memorandum from General Plan Consultants Dyett & Bhatia, and described the events leading up to this meeting.

Leslie Gould, consultant representing Dyett and Bhata (D&B), summarized the basic requirements of the Housing Element, pointing out that what the Housing Element will do is identify sites, not undertake the construction of housing, and the City is required to identify what programs the City will undertake to meet housing needs and to address any constraints to housing production. She stated that her firm was also asked by the City to work on detailed draft zoning for Belmont Village and along the El Camino corridor, which will be brought to the Commission in June. Using a power point presentation, she summarized the key findings from D&B's analysis as stated in the memorandum dated April 13, 2009, and presented maps illustrating potential mixed-use development sites and vacant residentially zoned sites in Belmont.

CDD de Melo clarified that June 30, 2009 is when staff would like to take the Draft Housing Element to the State Housing and Community Development Department (HCD).

Commissioners' questions and general comments were as follows, with responses from Ms. Gould and/or staff shown in italics.

Commissioner Frautschi:

Is it correct that the Housing Element is due every 5 years?

It is supposed to be done every 5 years but they are dependent on the housing needs allocations so in reality it is for a 7-1/2-year period – in this case, January 1, 2007 to June 30, 2014. Any units built in that time frame can be counted. Commissioner Frautschi commented that Summerhill Homes was completed after 2001.

Where do constraints due to topography and geological configurations or build-out conditions appear and are they accounted for?

Typically those constraints are discussed in the Housing Sites chapter, which is not included in this first draft.

Are the four State legislative requirements regarding low-income housing, secondary dwelling units, emergency shelters, and density bonus provisions the only mandated requirements for our Housing Element update and who sets those standards?

No, these are new requirements since the last housing Element in 2000 set by State code.

Where does the Regional Housing Needs Association (RHNA) fit in?

According to State code, there is a very complex formula that uses different housing demographic population projections to create the State-wide arena and then is divided up to the region. San Mateo County had the choice to redistribute it within the County but then they decided to go with ABAG's distribution. It comes down from the State. The HCD does the review of the Housing Element once it is completed.

Why does the assessment needs and supply not include housing renovations when bedrooms are added to existing housing stock?

The HCD requirements all revolve around production of units. Ms. Gold had never seen a jurisdiction argue to HCD that adding to a home was accommodating more households. If Belmont was able to present a strong case that its household size was increasing dramatically that might be something to explore but Belmont's household size is going in the opposite direction – it is getting smaller and smaller.

Discussion ensued regarding the addition of bedrooms, especially for board and care homes where the household is expanding but are not counted. Ms. Gould stated that if the full Commission supports the request and they are given the data to indicate that household sizes are expanding, they could research the issue.

Is Section VIII Housing a federally mandated statute and what is our local control and obligations on extending the funding and time limits?

Each of these projects has its own type of funding sources and D&B did a lot of research with existing affordable housing to understand the funding sources and time frames. The Commission does not necessarily have any control, but it is a required element of the Housing Element to inform the decision-makers about the status of the existing affordable housing units.

Does allowing higher density in the El Camino corridor passively increase the property values? Housing is currently a conditional use. The wording is rather vague but it says "residential use is allowed in any residential zones" so D&B believes that the zoning already allows 30 units an acre on El Camino. It is not a question of changing the density, its just trying to clarify and confirm what is already in the code. Ms. Gould did not know if that would change the property value; she could only state that the use is already allowed with a use permit.

The memo states that between the years of 2007 and 2014 the City of Belmont Housing Element must document the planning and future development of 399 new housing units or approximately 49.7 new units per year. Further in the report, ABAG projects 800 new households between 2008 and 2015 – 8 years – or 114 units each year to house new residents. Why wouldn't this ABAG number be 100 instead of 114 since 800 divided by 8 is 100?

The bottom-line target is for 399 identified available sites. The ABAG projection of 800 units between 2008 and 2015 is required to be included in the Housing Element but it is a projection, not a mandate. Because none were added in 2007 and 2008 and there are only 5 years left, the mandate is for 80 units per year – 80 times 5 equals the 400 units.

Commissioner Mathewson:

What are the consequences if the City does not meet the 399 figure by 2014.

Ms. Gould replied that as long as Belmont has demonstrated that it has sites available, that is the legal mandate from the State. She added that there are some things that have to be done when writing the Housing Element. For example, housing is not a conditional use any more; it's a permitted use if it's less than a certain density. The City has to have done what it said would do to make those sites available. If the City does not prove that it has adequate sites there are certain penalties. If only 10% of them got built, the other 90% would go in the next Housing Element. The numbers will be recalculated each time.

Vice Chair Mayer:

Is there ever a point where a city becomes undevelopable, or can ABAG and the State say the Bay Area population is increasing, you are not expanding, you're going to have to change something. Theoretically, yes, but Ms. Gould had never seen a city with a zero.

The number of below-poverty households and the decline in the small number of people per households interesting. As far as the number of people per household is concerned, some of the City's zoning regulations are based on the assumption that this is expanding; i.e., every time you add a room we're expanding the number of people per household. It seems like the exact opposite is happening – we're building larger homes, adding rooms, but the household sizes are not going up accordingly.

On page 2 it says that over 30% of Belmont households earn less than \$35,000, and on page 10 up to \$49,000, very low, is only 12%, and low is between \$50,000 and \$74,000 is 13%. Those two numbers do not add up to 30%.

It has to do with how many people are in the household. Ms. Gould believed that the numbers on page 10 assumes a 4-person household and the other number is more of an average household size of 2-1/2. She will make sure that the difference is clarified.

Commissioner Parsons:

Hoped that in the final document, rather than just citing percentages when they talk about statistics, some real numbers are included alongside the percentages.

Referring to the earlier question about what happens if Belmont does not build any houses, he asked how towns like Atherton and Hillsborough, which say they don't have any land, do a Housing Element.

Ms. Gould had not read their Housing Elements but believed they use second units quite heavily in places where they only have single-family areas. Usually every community finds some small way.

Do they get rewards if other cities take housing from other communities and take more than their share?

There is not a structure in place to swap and trade – every city has to do a Housing Element. The County has that opportunity in the regional needs allocation, but once the allocation is set an individual community has to meet its own.

It would be interesting to compare the requirements for the neighboring cities. We are in the process of doing that research. We did look into whether or not other cities require a Conditional Use Permit (CUP).

Recalled that the last time the City did a Housing Element there was discussion about using student housing to satisfying some of the needs. He believes consideration should be given in the current Housing Element to projected new dorms at Notre Dame as credit for very low housing.

CDD de Melo clarified that the City did get credit for a 200-bed dormitory as part of the 2001-2006 Housing Element, adding that to the Davey Glenn and Summerhill projects, the 330 requirement was easily met. He confirmed that NDNU does have a 100-bed dormitory project in the early planning stages that could be researched as a potential site.

Is there any advantage to identifying more sites than necessary?

The only reason to do more is if some of the sites are borderline as to whether they will count. For example, when they discovered that some of the redevelopment sites on the El Camino Real corridor have 164 extra, they thought that HCD may argue that some of the sites are really not development sites because they have existing businesses. In that event there would be adequate sites if not all of them redevelop.

Considering homeless and Section VIII people, are some of the unprofitable hotels and motels in town included in the report?

D&B did do some research on that by calling them to find out if they have monthly rates. Most of them do not. In order to say it is housing, they have to rent on more than a daily or weekly basis. The results of their research will be included in the full draft.

Suggested that approved projects since 2007 should be looked at.

CDD de Melo responded that D&B had not had the benefit of going through the files. He had gone over agendas since January of 2007, and found about 26 total units, including a 3-unit town home project on Carlmont, a 3-lot subdivision on Bishop Road, 6 in-fill single-family homes, 2 second units, 9 at Belmont View, and a gain of 3 at the condo conversion at 1000 South Road.

Was amazed at some of the statistics, especially that Pacific Islanders comprised a large percentage of minorities in Belmont.

Commissioner Reed:

Does Belmont need to identify a strategy to actually build 399 units? It seems a hollow gesture to say we have 399 lots where something can be built to actually provide the housing for low-income people. You need to adopt housing programs to meet your housing need. You have to look at the resources that you can bring to bear – there is not an obligation to demonstrate what you are going to build but there is an obligation to put forward housing programs that the City will commit to over the next 7 years to try and meet housing needs.

Is it correct that we meet low-income housing requirements based on density?

That is by definition in the State law about the Housing Element.

Where is the logic if you meet that standard by density but charge \$1200 to \$1400 a month rent when somebody making \$35,000 a year is overpaying at \$875 a month?

The State is trying to have everybody make their best effort and has concluded that it may be very difficult for a community to prove that units on a particular site are going to be affordable in every case, so they have come up with the density measure as a "default" assignment of affordable units. Generally at those densities the units are smaller and, particularly, if they're rental they're going to be far more affordable than a single-family home. The most that HCD can really ask a community to do is to make sites available for more compact housing, so they have decided that that is the best effort they are asking for; it does not guarantee that there is a unit that is affordable at \$544 a month. The only way that happens is with actual subsidies.

Chair Horton:

What about second units-- they don't get proposed, they just get counted if they happen?

You can use second units if you can demonstrate a track record of their actually having been produced through building permits or other sources. The data that we have from the City so far is that there is

not a track record of people coming in to build and get permits for second units, so we did not feel that it was a strong big enough number to really make a difference because there might be one or two in seven years. If it does happen it can be counted against the number.

Chair Horton invited members of the audience to speak.

Laura Pederhaun, Belmont resident, spoke about the Human Investment Project (HIP), which is involved in shared housing. She felt that this is a way, other than creating new housing, that some of the lower income people, the aging population and the disabled, could be absorbed into the community. She suggested that there are a tremendous number of empty bedrooms, and that some kind of outreach throughout the community should be pushed to a degree.

Discussion regarding requirements set forth in the Dyett & Bhatia Housing Element Analysis Summary memorandum was as follows:

1.3. New State Legislation Requirements, AB 1866 (2002) Second Units (page 8)

After discussion and reading of the code, it was determined that Belmont's code as written meets the requirement.

Commissioner Frautschi commented that for this Housing Element to be truly reflective of housing conditions in Belmont, they have to have a full and complete accounting of all the secondary units in town. He knows of at least 10 secondary units in his neighborhood that are not counted towards the Housing Element and suggested the possibility of a moratorium or amnesty and no fees. CDD de Melo responded that this might better be captured in the second round, which will be programs that the City has in place, or is considering adopting in the future, such as an amnesty program or a rental inspection program. This would be an opportunity to try to encourage folks to legalize the units and an added benefit to the City would be that it would provide additional opportunities to meet the 399 mandate.

SB 2 (2007) Emergency Shelters (page 8)

Commissioner Parsons asked for the definition of Emergency Shelters. Ms. Gould responded that it is basically providing an overnight sleeping shelter for people on a short-term basis who need it immediately without deposits and without credit checks and who have no other options. She added that it may not get built but there has to be a zone where it is allowed by right without a CUP. Responding to Commissioner Frautschi's comments, CDD de Melo stated that staff had looked at El Camino Real, Old County Road and Masonic, and concurred that the high-speed rail would be a "game changer." Ms. Gould said that there is the opportunity to address the issue on a multi-jurisdictional basis, however, typically most jurisdictions do not want to take in other communities' homeless. Responding to further questions, Ms. Gould said that the City does not have to build a shelter, it just has to designate a zone where the use is permitted. The zone can have other permitted uses and it does not say anything about the size.

Chair Horton asked if there was consensus on the site chosen (eastern side of El Camino, at the southern end). Commissioner Parsons said he would rather see other sites looked at also. Discussion ensued regarding the Commission's July 2008 consideration of allowing residential use south of Ralston on Old County Road and the consensus at that time was that that area should be commercial and that housing most likely was not appropriate within that section of Old County Road. Ms. Gould stated that if it were to be a conditional use it would not be a permitted by right, which means a shelter could not be put there. She added that they checked the dimensions of the chosen site and in the current configuration they could put a building on it.

SB 1818 (2005) Density Bonus Law (page 9)

Ms. Gould stated that this is a straight-out mandate; no discussion required.

1.2 Constraints to Housing Production -- Government Constraints -- Parking Requirements (page 6)

Commissioner Frautschi would support a potential solution to review parking requirements for the Village Center/El Camino area if more units could result but he pointed out that they currently do this analysis on a case-by-case basis and that certain credits are already allowed in this area due to its proximity to mass

transit. He wanted to consider looking at it because all sorts of problems are created when they start reducing parking requirements. When we reduce the parking the consequences in this area could be overflowing on single-family residential streets (5th, 6th, and Harbor). He is not saying that they shouldn't reduce it if someone comes in with a building that has 3 2 and 1 bedroom units and they want to require a smaller amount of parking for the one bedroom, but it has to be done on a case-by-case basis. If a developer is having a problem understanding the rules he is not certain he wants them developing in Belmont anyway.

Commissioner Parsons did not believe that the City's off-street parking requirements in R1 neighborhoods are overly strict. He said that they set standards in Belmont where they try to keep cars off the street so the neighborhoods look nicer; if they reduce the amount of required parking it will make neighborhoods messier. The suggestion that they differentiate parking between hills and down below does not make sense to him – it just lowers the standards – and he was not sure statistically they would find that studio units have one person in them.

Commissioner Reed would love to revisit parking; he believes it is overly stringent in the flatlands where a lot of the lots are very small and the houses are very old and built with one-car garages and skinny little driveways. He felt that putting any more than 400 sq.ft. on a house necessitates turning the entire front of it into a garage, which to him is unacceptable when many of the streets are 60' wide. He felt that they could make some sensible changes to the one-size-fits-all parking.

Commissioner Mayer said that it's a myth that the City's requirement for garages will solve parking problems when in fact the garages are turned into storerooms and people park on the street or the driveway anyway. Regulations are not achieving the goal of reducing parking problems. It seemed to him that the flat residential areas are pretty well developed and he did not see a lot of change occurring in those areas, except El Camino. He thought it was worth looking at it.

Commissioner Parsons added that the Commission previously made a decision to look at parking but he did not think it should be proposed as part of the Housing Element.

Discussion ensued, after which Ms. Gould stated that Belmont's multi-family requirement is two per unit, which is probably fairly consistent with other communities, particularly two-bedroom units. Where they noticed the big discrepancy with parking requirements in other comparable places are the four-per-unit for the single-family and two-per-unit for the studio. Responding to Vice Chair Mayer's question as to why the question is raised, Ms. Gould stated that State law says they are to look at any potential constraints to housing development. For example, if somebody couldn't add a second unit or develop a vacant site because they didn't have the parking. They were looking for any place where Belmont's requirements are different from comparable cities with comparable housing types. Chair Horton concluded that she would not disagree with 1.5 parking spaces for a studio unit but thought that the single-family home is such a mess already, she did not think they wanted to make it any worse.

Licensed Care Facilities (page 6)

Ms. Gould pointed out that a licensed care facility for over 6 people is not in the zoning code as a category. The State definitely identifies this as a residential use.

Commissioner Frautschi asked how broad the application has to be. Ms. Gould responded that it is up to the City to decide what is appropriate – they could allow a residential care facility in a residential zone with a use permit or small ones by right. 6 in a single-family home is a State law that has to be allowed – those are board and care homes in a single-family residence – but more than 6 is really what they are talking about. The Commission can decide whatever regulations are appropriate – the City just does not have any right now. Commissioner Frautschi said he felt that they should provide it if they have to, but he thought they should try to minimize the limit as much as possible simply because, from his experience, the whole character of a single-family neighborhood can be lost if there are too many board and care homes on a street. He suggested that they should not be allowed within 1,000 feet of each other or something like that. Ms. Gould said that they could be in multiple-family or commercial zones. She did not discuss with staff exactly which zones but wanted preliminary feedback from the Commission.

Commissioner Parsons thought that Commissioner Frautschi was talking about homes with less than 6 residents, but if they are looking at more than 6 he felt that Belmont has more than enough that can be

identified already. He concurred that maybe in the future they could look at some refinement to the zoning and single-family residential that limits the number of small facilities are allowed in a neighborhood.

Commissioner Reed agreed that residential care homes should be looked at carefully and noted that Belmont's population is older than average; that young families with children are 22% of the population, the housing stock probably needs to turn over a little bit, older people who are living alone probably need to get better care than they're getting now, and that the future of a lot of the low-income housing that could be provided in Belmont would be provided to the 70% of seniors who are overpaying rent. He thought that some form of multi-person housing for the elderly who are currently overpaying is really the secret to getting the 399 units built, and agreed that it should be looked at carefully, and because of the demographics of the City it will be a big part of the Belmont for some time to come.

Development Review Process (page 7)

Ms. Gould explained that this item is referring to multi-family zones, particularly along El Camino and Belmont Village and the Belmont View project, for example, where in the end the City was receptive and found that project absolutely good and appropriate but it had to go through a Rezoning to Planned Development because it couldn't meet every single standard. The idea would be that a developer could apply for an exception to a standard and the test would be the findings of a CUP – i.e., is it good for the general welfare of the City, does it have adverse impacts on neighbors, and does it meet the design review criteria? "Yes" answers to all of those questions would mean that the exception could be approved. A Variance finding, on the other hand, says that one has to prove that the property is different than everybody else's and it's a complete financial hardship – they are pretty strict findings in Belmont's code.

Commissioner Parsons said that he had trouble with the word "relaxation." Ms. Gould restated that it would just mean that one could apply for an exception to a development standard through a Use Permit finding rather than a Variance, so it would still be discretionary and the criteria for the review would have to do with impacts on neighboring properties, design guidelines, general welfare of the city and neighborhood.

Commissioner Reed asked if it is really a relaxation or a change to the discretionary. Ms. Gould responded that he was right, it is not a relaxation of a standard, it is a change in the review process and the review criteria.

Commissioner Parsons asked if that is what they are now doing for redevelopment of Firehouse Square. CDD de Melo responded that what is going hand in hand with this is actually creating a more streamlined effort within the target sites and there are certain thresholds where a CUP will be required thresholds, but design review is always part of the game. That's a discretionary action, so the things that matter to a Commission and Council in terms of looking at a project – the site planning, the architecture, the landscaping, the parking, all of those important things – would still be afforded the appropriate review by the decision-making body. The question is, is there a companion CUP that's needed as part of that review? Ms. Gould added that the idea would be if you wanted to apply for a 10' setback for one portion of the building instead of meeting the minimum 15' setback, you would be able to request an exception, understanding that it is not by right, and the criteria of whether the Planning Commission grants the exception is the CUP criteria, not the Variance criteria. It has to do with the criteria that you use to review the request for multi-family housing.

Vice Chair Meyer asked if it would also bypass the Planned Unit Development process. Ms. Gould stated that a developer could come in and request an exception without having to rezone the entire property. Vice Chair Meyer added that that has been one of the problems that is frustrating to him – it takes so long that projects fall by the wayside.

Commissioner Reed felt that the issue may be that developers know that it is very difficult to do this and avoid Belmont for that reason. He thought it was possible that there are properties along El Camino that could have been rehabbed 10 to 20 years ago but people are shying away from it.

Chair Horton agreed that that was the message.

Commissioner Parsons questioned if it is appropriate to put that in the Housing Element and restated that he did not like the word "relaxed." He thought this should be discussed in detail as a Commission rather than saying they will do this in the Housing Element. Ms. Gould clarified that what the Housing Element would

actually say is that they will "consider a revision to the zoning code to allow exceptions to standards according to CUP criteria rather than Variance criteria." The actual action would still have to go through the regular amendments to the rezoning process – it would come to the Planning Commission and Council. Commissioner Parsons asked what happens if they don't do it but say they will. Ms. Gould's response was that that they could say they are only going to do it in certain circumstances but not everywhere.

Commissioner Frautschi disagreed with Ms. Gould on this particular issue and read his comments into the record as follows:

"When I read this paragraph (from page 13 of the memorandum) 'In order for the underutilized parcels to be considered adequate sites, the City will need to amend the zoning to allow residential uses 'by right,' without requiring a CUP, or planned unit development permit.' And then, specifically about the development process – I've stated in forum and I restate it here that I don't necessarily want to make it an unfettered walkabout for developers. That's my concern. I totally disagree with adverse statements, Leslie, that you make in the memorandum in that 'The review timeframes for projects are long, and involved with great uncertainty.' The statement that 'some developments can reach as long as 18 months for a multi-family development' gives a possible worse case scenario without any consideration to the nature, complexity and applicant's endeavor to meet the development standards and the milestones. And further, regarding the CUP requirement, I think it's outlandish that this memorandum contains the statement 'The CUP requirement means that the City can deny the project outright even if it meets development standards and other requirements.' I have never seen that happen. I reject outright the potential solution of relaxing development standards across the board on small lots by placing our CUP requirements on the beheading block. In almost every situation I have seen, a strongly written CUP is the only control our City holds against errant and misbehaving developments long removed from the developer. Additionally, I haven't been shown that a relaxation would necessarily promote small lot mergers, which I think is what we're looking at, hoping for, and development meeting Belmont's housing needs. So I don't think you've made your case with me about how these particular changes to our zoning code is going to promote more housing. It might make it more easy for developers, but as I said previously, if a developer can't read and understand the rules and ask the question up front of staff – they have pre-staff meeting about if they want to build something – if they can't ask those questions I don't necessarily want them to come here and if bringing them here means letting them have free reign I don't want to do that. And your report to me is telling us this is what we need, this is one of the possible solutions you could do to help your Housing Element. I don't think it's a solution that's going to work for me in Belmont. And that's just personally how I feel about it."

Commissioner Parsons commented on how, in the 1940's after the War, main streets in towns, particularly in the mid-West, were developed with shops and housing above, and today most of those main streets are sad looking and that's why people started going to malls to shop. The housing became run down, the buildings became run down. Then for a long time cities were no longer allowed mixed use development in their main corridors and now we're getting back to mixed use in our corridors. He is supportive of that but thought that giving up CUPs, which give cities a handle 10 years down the road when these places start looking bad, is not good for Belmont. The CUP can put in controls that stay in effect and require that owners take care of the building and landscaping and have the right tenants. If they give all that away, he felt that the City would end up with main streets with housing developments that get delapidated and run down in 10 years. He supported Commissioner Frautschi's comments, and felt that they need to find ways to streamline the process and clarify the regulations, but giving developers a right to do something and not have any consequences because they do not have a CUP would not be good. He believes the need for a CUP needs to stay in Belmont.

Chair Horton stated that she believes they have to acknowledge that Belmont has sent confusing messages to developers, it does not have a good reputation right now in the development community, and they need to get over that if they are going to do economic development. The consultant's report is targeted at that fact, and whether it is said the way the Commission wants to say it is one thing, but whether they like it or not, it's the truth.

Ms. Gould suggested that they should take the items in the report one by one. The item they were talking about was trying to be able to use a CUP set of findings for requests for exceptions to development standards rather than using a Planned Development rezoning process, which in the end would shorten the process. It's a discretionary action – it's a CUP – not a legislative action. The issue that Commissioner Frautschi was talking about is a different one.

Chair Horton asked if anyone has an issue to an exception to a current development process to not require a variance or Planned Development Zone process but to have an exception to that and just go directly to a CUP. Commissioner Parsons restated that he thinks it is something they should consider but he did not believe they should make a recommendation. Chair Horton believed that what they should say in the Housing Element is that they are considering this action.

Referring to the third bullet point on page 7, "Clarify existing zoning regulations related to the density of residential allowed in the commercial zones," CDD de Melo said that they should clarify what the density limits are within commercial zones, because right now that is lacking. All Commissioners concurred.

Referring to the sixth bullet point on page 7, "Update the Zoning code to clarify definitions, requirements, and standards in districts where regulations are unclear or confusing. This particularly applies in the Downtown." Chair Horton determined that no one disagreed with that solution.

Referring to the seventh bullet point on page 7, "Adopt clear design guidelines so the decision-makers, staff, applicants, and residents know the review criteria and expectations at the outset of a project." Chair Horton stated that a number of Commissioners were on a task force to do just that, so this is already going on.

The CUP Requirement (Page 7)

Chair Horton read the recommendation into the record: "Revise the zoning to clarify that residential is by right instead of a conditional use, in both multifamily residential zones and in commercial zones that allow residential development as part of a mixed use project."

CDD de Melo clarified that in the C2, C3 and C4 districts, any residential use proposed, whether it's mixed use or not, requires a CUP. Ms. Gould added that in an R4 residential zone, a medium-density multifamily project requires a CUP and confirmed for Commissioner Reed that multifamily buildings in a multifamily zone require some kind of conditional approval. Commissioner Reed felt that that was illogical; Commissioners Parsons and Frautschi disagreed.

Commissioner Frautschi cited Summerhill Homes as an example where they were required to apply for a CUP and Council negotiated the number of units they could put on that lot. They were able to reduce the number of units, which lessened the impact on the neighborhood.

Commissioner Parsons cited the apartment complexes and development along Old County Road where there are no controls to see how they are kept up, adding that with a CUP the City can set standards that have to be maintained by whoever owns the property.

Commissioner Reed felt that the same logic would then apply to single-family homes that were built three owners ago and are not being kept up by the current owner, and asked if they should not then require a CUP for every building in every residential zone. To clarify, he stated that a multifamily unit with a CUP allows the City to take corrective action based on the CUP but without a CUP the City cannot take the same action with a homeowner who is not keeping up his or her property.

Commissioner Frautschi noted that code enforcement can handle weed cutting and other issues but that certain things happen in larger developments that just do not occur in single-family settings.

Vice Chair Mayer asked if there isn't a mechanism in the regular Design Review process that would allow control over the size of the project. CDD de Melo responded that in the Design Review process there is an opportunity to look at the site plan, architecture, and landscaping, and then you can adopt conditions of approval in association with that entitlement. Section 11 of a CUP provides a revocation process for any condition of approval that is not being followed. It's more difficult to ascertain relative to a Design Review entitlement. Density requirements are required based on district, so a developer could not build a huge project in an inappropriate district. A project is not just governed by density, it's also governed by open space provision per unit and by parking, and those things all contribute toward why a project is a certain density.

CA Zafferano advised that one of the fundamental distinctions being discussed had to do with a Design Review being a snapshot in time – a one-time review of the project – vs. a CUP being something that has a

continuing life beyond the initial approval. He added that if one of the concerns is for on-going maintenance of a project, it might be useful to discuss or have the consultants and staff devise some way to address those on-going issues either with a CUP or perhaps an alternative. From a legal standpoint, he saw the distinction as being between the initial approval vs. the continued maintenance and operation of the facility. Once Design Review is granted, the applicants aren't required to maintain the same plants, color of garage door, that was initially approved in perpetuity; they can change those things whereas standards that are part of a CUP run with the land and obligate the owner, whoever it is, to maintain the property in that condition.

Ms. Gould responded that the Commission could ask her to look into that possibility, and added that most communities deal with the on-going maintenance issues through a code requirement and then rely on code enforcement if that on-going obligation is not met. CA Zafferano added that that presupposes that there are explicit enough zoning codes that allow for the code enforcement to occur, so one of the things they may want to look into is whether the City currently has that ability or whether there might be changes that need to be made to some of the nuisance abatement provisions of the code that might provide some additional teeth in the event that that is a recommendation.

Commissioner Parsons felt that this issue is controversial enough that it probably should not be handled in the Housing Element, but is something that they could look at in the future based on more information. He did not believe the Commission should make a statement that they are going to revise the zoning code to allow residential by right instead of as a conditional use. Chair Horton thought they should say that they are exploring that option, and then if it is truly a hurdle that people prefer not to tackle, they should explore it further to determine how they can get to the same result without putting that obstacle in front of people.

Commissioner Parsons believed that most developers do not reside in Belmont and often are the owner for the first five or six years and then the properties are sold. He stated that there is a high standard in Belmont and now that they are looking at more dense development along the transportation corridor they need to do it carefully and not lower the standards. He concluded that he wanted to produce a good Housing Element but at the same time did not want to give away everything that they have worked so hard to make better. Chair Horton responded that she believed the recommendation is to find a way to do it without sacrifice so that developers will come to Belmont.

Ms. Gould added that the design guidelines is what Council has directed and is really concerned about. The Council's highest priority was for the consultant to work on standards and design guidelines for quality. Commissioner Reed said that he was not suggesting those should be relaxed; he was saying that there might need to be some consistency to when a CUP is required and when it is not, based on the zone.

Chair Horton said that obviously the Commission utilizes single-family home design guidelines more frequently than multi-tenant or commercial design guidelines, but they are just as important. If the City's design guidelines state certain things, perhaps they have created some of the requirements. The entitlement that is granted by a design guideline can outline many things, and they can always go back to the conditions.

Ms. Gould recapped that what she was hearing is that it is something that Commissioners are willing to discuss further and consider, they're not sure that it's a recommendation at this point, and that there are caveats that might need to be put in place.

Commissioner Parsons said that he does not want to see a tired main street in Belmont in ten years. Ms. Gould added that she understood that the maintenance issue apparently has been a big issue for certain projects and that there needs to be avenues to insure that there is an on-going obligation. She said Dyett & Bhatia will look into the issues the Commissioners raised about second units, housing in motels, housing that has already been built since 2007 where she doesn't have the data yet, and on the program basis, looking at the second units.

Sites Map

Ms. Gould asked for comments about the sites identified on the sites map.

Commissioner Frautschi mentioned a site that he did not see in the report – the Water Department’s site at 1510 Folger Drive, which is a house in a residential zone that is used for office space. He had no specific comment about it except for its size.

Commissioner Frautschi read the following comment into the record:

“For its size, Belmont contains a very large number of educational institutions that at times add an additional burden of unbearable traffic, so in any analysis and consideration for housing needs, allocation and potential sites we have to delicately balance this issue of new housing. Traffic is awful and the report is making us make us make it more awful. Regarding the El Camino transit corridor, I feel that we should restructure our code to promote and assemble the multiple small parcels to meet housing needs on what has been referred to as underutilized parcels; however, I don’t feel we need necessarily to allow residential uses by right without the benefit of CUPs or Planned Unit Development permits or, like the attorney said, some other leverage of control. This to me smacks of total deregulation of our zoning code CUP process, allowing potential outside developers free range in our transit corridor. I prefer a directed, precise and controllable approach. I admit that there is definitely room for streamlining our zoning code and the guidelines for the Downtown Specific Plan and the development guidelines, which I worked on in a subcommittee with Jackie. Along the El Camino transit corridor, to minimize confusion because there is confusion, there is disparity between the different documents that we’re required to look at, however, I’m not certain that we would want developers who have difficulty interpreting definitions and requirements in standards. I’m not necessarily willing to rewrite our zoning code to meet their needs. This is the tenet I always go by. First and foremost we should do no harm with this Housing Element update – do no harm – and protect Belmont and the quality of life for its current citizens. That is what we need to do, and I think we’ve made a good step. I think that we can jump through the hoops and accomplish the Housing Element and do everything we need to do but I don’t think we have to give away the cow to do it.”

Commissioner Parsons thanked the consultants for their hard work, adding that sometime in the future he would like to discuss the use of the CUP in the two different areas with them. Ms. Gould acknowledged that it is a bit confusing because people think of a conditional use as meaning “do you allow a use or not?” but conditional use legally has been expanded by a lot of communities as a way of granting exceptions to a particular setback or a height or those kinds of requirements, because variance requirements are so strict. The CUP is being expanded so that it is not just a use issue but a way of allowing exceptions to standards. She said that she would be happy to sit down and discuss this differentiation further.

Referring to the earlier discussion about smaller residential units or assisted living, Commissioner Frautschi said that, in addition to the HIP program discussed by Ms. Pederhahn, he had heard of a program called “Adopt a Grandparent,” and felt that the City should emphasize programs that would prevent older people from having to leave their homes.

Commissioner Frautschi stated that he will give the consultant his edited copy of their report.

Ms. Pederhahn addressed the Commission again, stating that Bruce Hamilton is the Executive Director of HIP housing and that he would be happy to host a symposium for the City in order to spread the word about their services. She added that she is on the HEART (Housing Endowment Regional Trust) committee and that the County has statistics on secondary units and questioned what could be done to bring them up to standards so they can be legalized and counted. In addition she gave information on the County’s two emergency shelters – one in Redwood City and one in San Mateo – and mentioned that the care facility just west of “Ralston Park” is on a large piece of property that appears to be underutilized and possibly could be considered for expansion for licensed care.

Ms. Gould said that the Commission’s comments will be forwarded to the City Council, and Council will discuss the same issues on April 28th. She will be returning to the Commission in June.

CDD de Melo thanked the Commissioners for their time and the consultants for their efforts to date on this project, and remarked that policy issues are always difficult.

6. REPORTS, STUDIES AND UPDATES:

CDD de Melo reported as follows:

6A. Motel 6 – 1101 Shoreway Road
No update at this time.

6B. NDNU (Koret) Athletic Field
No update at this time.

6C. Charles Armstrong School – 1405 Solana Drive
No update at this time.

6D. Ralston/US-101 Landscape Project
No update at this time.

6E. San Mateo Development – North Road/43rd Avenue
A meeting was held with the project developer where the City's concerns about how things have transpired related to the encroachment permits were discussed. He stated that the meeting ended on a very positive note, and the developer is now trying to come up with better solutions for access to that project as well as landscaping improvement, trash enclosure relocation, etc. He expects good things to come from that meeting.

6F. 900 Sixth Avenue – Belmont Vista Facility
No update at this time.

6G. Caltrain Landscape Area
No update at this time.

6H. Vancea Auto – 900 El Camino Real
The City is doing its due diligence on this property in terms of determining the value of the land before moving forward with any action.

6I. Parking Study – Downtown Village Areas
No update at this time.

6J. High-Speed Train (HST) Project – San Francisco to San Jose
A Town Hall meeting sponsored by Jerry Hill's office was scheduled for the following Thursday at 7:00 p.m. in Council Chambers.

7. CITY COUNCIL MEETING OF TUESDAY, APRIL 28, 2009
Liaison: Chair Horton
Alternate Liaison: Commissioner Frautschi

8. ADJOURNMENT:
The meeting was adjourned at 9:45 p.m. to a Regular Planning Commission Meeting on Tuesday, May 5, 2009 at 7:00 p.m. in Belmont City Hall.

Carlos de Melo
Planning Commission Secretary

CD's of Planning Commission Meetings are available in the
Community Development Department.
Please call (650) 595-7416 to schedule an appointment.